

The certification required to be made by a contractor purchasing building materials for incorporation into real estate owned by an exempt organization under a contract with that exempt organization is set out at 86 Ill. Adm. Code 130.2075(d)(4). (This is a GIL).

June 27, 2000

Dear Xxxxx:

This letter is in response to your letter received April 10, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

By this letter, we are requesting a PRIVATE LETTER RULING as outlined below for tax type - State Retailers' Occupation Tax (plus local Retailers' Occupation Tax).

COMPANY is a manufacturer of heating, ventilating, air conditioning and refrigeration equipment. COMPANY also acts as a wholesaler, retailer and services this same equipment. Because of the nature of the products manufactured and sold by COMPANY, they will generally constitute real property upon installation.

The issue to be discussed is the responsibility of the taxpayer in compliance with Illinois Regulation §130.2075. Sales to Construction Contractors, Real Estate Developers and Speculative Builders. Sale of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax.

The regulation specifically requires the supplier claiming the exemption to have certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body by identifying the church, charity, school or governmental body that is

involved by name and address and stating on what date his contract was entered into.

The supplier is also required to have among his records the active exemption number issued by the Department to the organization for which the purchasing contractor is acting.

The person claiming the exemption has the burden of proving that the contractor's customer qualifies as an exclusively charitable, religious or educational organization or institution, or a governmental body.

REASONS FOR THIS REQUEST:

COMPANY bids and solicits sales of equipment to mechanical contractors. When the contractor submits his formal purchase order, he states the job is for an exempt organization and provides a statement identifying the job and the Illinois Department of Revenue E0000-0000-00 number on the face of the purchase order.

At this time, COMPANY is responsible to secure the date the contractor entered into the contract with the exclusively charitable, religious or educational organization or institution or a governmental body. Additionally, COMPANY is required to secure a copy of the Illinois Department of Revenue stating the reason for the qualified exemption.

This burden of securing additional information from the contractor's customer is cited as the reason for this letter ruling. Copies of a purchase order from the mechanical contractor are attached illustrating the documentation provided and the additional burden placed on the supplier to comply with the Illinois Regulation §130.2075(d).

PROPOSED REMEDY:

The taxpayer is seeking relief from the responsibility of securing the date in which his customer's contract was entered into with the church, charity, school or governmental body. Relief is also sought from the requirement to secure certification that qualifies the contractor's customer as an exclusively charitable, religious or educational organization or institution, or a governmental body.

The ruling requested would accept the properly executed purchase order from the contractor to COMPANY stating the name and address of the church, charity, school or governmental body and providing the Illinois Department of Revenue exemption number. The purchase order alone will relieve the supplier from the burden of tax on their sales whether the sales are made directly or indirectly to these organizations.

June 27, 2000

Please advise the writer at the #### when you have received this request for consideration. Subsequent correspondence can be faxed to ####.

Your prompt consideration to our request will be greatly appreciated.

Exemption identification numbers issued by the Department should generally only be provided by exempt organizations or governmental bodies to sellers for sales of tangible personal property that are invoiced to the exempt organization or governmental body itself. Sales to individual members of an exempt entity or to purchasers purportedly buying something for an exempt entity are generally subject to tax. See 86 Ill. Adm. Code 130.2075(d)(4). However, Section 130.2075(d)(4) states that:

"A supplier claiming exemption hereunder shall have among his records a certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date his contract was entered into. The supplier shall also have among his records the active exemption number issued by the Department to the organization for which the purchasing contractor is acting."

The Department cannot waive the requirements of this regulation. The contractor is required to provide this information in order for the purchase to be exempt from tax. If the contractor cannot provide this information, then the sale is subject to taxation.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk